

AMENDED IN ASSEMBLY APRIL 14, 2010

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

## ASSEMBLY BILL

No. 2398

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**Introduced by Assembly Member John A. Perez**

February 19, 2010

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An act to add Chapter 20 (commencing with Section 42970) to Part 3 of Division 30 of the Public Resources Code, relating to recycling.

### LEGISLATIVE COUNSEL'S DIGEST

AB 2398, as amended, John A. Perez. Product stewardship: carpet.

The California Integrated Waste Management Act of 1989, administered by the Department of Resources Recycling and Recovery, is required to reduce, recycle, and reuse solid waste generated in the state to the maximum extent feasible in an efficient cost-effective manner to conserve water, energy, and other natural resources.

~~This bill would require the department, by January 1, 2012, to establish a baseline collection rate for the amount of carpet that is discarded and subsequently collected. The bill would provide a procedure for determining the collection rate for purposes of the bill, commencing January 1, 2013.~~

The bill would require, by September 30, 2011, a producer or the ~~product~~ *carpet* stewardship organization created by one or more producers of a carpet to submit a carpet stewardship plan to the department, which would be required to include specified elements, including ~~performance~~ *product* goals ~~as to the~~ *and* a collection rate for ~~a compact the carpet subject to the plan, calculated in a specified manner. By January 1, 2012, the~~ *The* department would be required to review ~~and either approve or disapprove a carpet stewardship plans~~

*plan submitted to the department and deem the plan either complete or incomplete within 45 days after receipt.*

The bill would prohibit a producer, *wholesaler*, or retailer, on and after January 1, 2012, from selling a carpet unless the ~~producer or carpet stewardship organization of the carpet has submitted a plan to the department that is approved~~ *plan for that carpet is deemed complete* by the department. The act would require a producer of carpet *or the carpet stewardship organization to collect the carpet pursuant to implement the carpet stewardship plan and to meet the performance goals included in the carpet stewardship plan, including achieving the collection rate.*

Each producer or carpet stewardship organization implementing a carpet stewardship plan would be required to prepare and submit to the department an annual report describing the activities carried out pursuant to the carpet stewardship plan ~~and the department would be required to adopt regulations, by January 1, 2012, specifying the information required to be included in the annual carpet stewardship plan report.~~

A producer or carpet stewardship organization submitting a carpet stewardship plan would be required to pay the department an ~~unspecified administrative fee when submitting the plan for review and approval and to pay an annual administrative fee, as determined as an unspecified percentage of the costs of implementing the plan by the department.~~ The bill would provide for the imposition of administrative civil penalties upon a producer who does not comply with the bill's requirements or a producer, *wholesaler*, or retailer selling carpet in violation of the bill. The bill would create the Carpet Stewardship Account in the existing Integrated Waste Management Fund and would require that the administrative fees be deposited into that account and that the penalties be deposited into the Carpet Stewardship Penalty Subaccount that the bill would create in that account. The bill would authorize the fees and penalties to be expended, upon appropriation by the Legislature, to cover the department's program implementation costs and as incentives to enhance recyclability and redesign efforts and to reduce environmental and safety impacts of carpet.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. The Legislature finds and declares all of the  
2 following:

3 (a) Recycling carpets results in greater green house gas (GHG)  
4 emission reductions than most other products.

5 (b) Carpets accounted for 3.2 percent of waste by volume  
6 disposed of in California in 2008.

7 (c) Despite nationwide and California memoranda of  
8 understanding to promote carpet recycling, the carpet recycling  
9 rate has dropped from 4.9 percent in 2007 to 4.3 percent in 2008.

10 (d) The California carpet industry memorandum of  
11 understanding targets a recycling rate of between 20 and 25 percent  
12 by 2012.

13 (e) Because other types of recycling programs have proven to  
14 have limited success, state and regional governments in Europe  
15 and Canada have adopted producer responsibility programs to  
16 redirect the responsibility for the end-of-life management of  
17 discarded hazardous and hard to manage products from local  
18 governments and retailers primarily to producers.

19 (f) The former California Integrated Waste Management Board  
20 adopted an overall Framework for an Extended Producer  
21 Responsibility (EPR) guidance document as a policy priority in  
22 January 2008.

23 (g) The program established by this act is intended to reduce  
24 costs to local government, to harmonize the state's producer  
25 responsibility obligations with other national and international  
26 programs, and to enhance the protection of public health and the  
27 environment through safer product design, use, and end-of-life  
28 management.

29 SEC. 2. Chapter 20 (commencing with Section 42970) is added  
30 to Part 3 of Division 30 of the Public Resources Code, to read:

31  
32 CHAPTER 20. PRODUCT STEWARDSHIP FOR CARPETS  
33

34 42970. For purposes of this chapter, and unless the context  
35 otherwise requires, the definitions in this chapter govern the  
36 construction of this chapter:

(a) “Brand” means a name, symbol, word, or mark that identifies the carpet, rather than its components, and attributes the carpet to the owner or licensee of the brand as the producer.

~~(b) “Carpet” means \_\_\_\_\_.~~

~~(e) “Collection rate” means a quantitative measure that establishes the amount of carpet required to be collected by the carpet stewardship system for that carpet by an established date. The collection rate is included as a component of the performance goals for a carpet.~~

*(b) (1) “Carpet” means a manufactured article that is used in commercial or residential buildings affixed or placed on the floor or building walking surface as a decorative or functional building interior feature and that is primarily constructed of a top visible surface of synthetic face fibers or yarns or tufts attached to a backing system derived from synthetic or natural materials.*

*(2) “Carpet” includes, but is not limited to, a commercial or a residential broadloom carpet or modular carpet tiles.*

*(3) “Carpet” does not include a rug, pad, cushion, or underlayment used in conjunction with, or separately from, a carpet.*

*(c) “Carpet producer stewardship” means requiring the producer of a carpet, and all other entities involved in the distribution chain of a carpet, to share in the responsibility of reducing the life cycle impact of the carpet and its packaging, including requiring the producer who makes design and marketing decisions for the carpet to bear the primary responsibility for this reduction.*

*(d) “Carpet stewardship organization” or “organization” means an organization appointed by one or more producers to act as an agent on behalf of the producer to design, submit, and administer a carpet stewardship plan pursuant to this chapter.*

*(e) “Carpet stewardship plan” or “plan” means a plan written by an individual producer or a carpet stewardship organization, on behalf of one or more producers, that includes all of the information required by Section 42971.*

*(f) “Collection rate” means a quantitative measure established in the carpet stewardship plan that establishes the amount of carpet required to be collected by the carpet stewardship system for that carpet by an established date. The collection rate is included as a component of the product goals for a carpet.*

1     ~~(d)~~

2     (g) “Department” means the Department of Resources Recycling  
3 and Recovery.

4     ~~(e) “Performance goal” means the collection rate of carpets and~~  
5 ~~may include, but is not limited to, the reuse and recycling rates~~  
6 ~~established by the carpet stewardship plan for that carpet.~~

7     ~~(f)~~

8     (h) “Producer” shall be determined, with regard to a carpet that  
9 is sold, offered for sale, or distributed in the state, as meaning one  
10 of the following:

11     (1) The person who manufactures the carpet and who sells,  
12 offers for sale, or distributes that carpet in the state under that  
13 person’s own name or brand.

14     (2) If there is no person who sells, offers for sale, or distributes  
15 the carpet in the state under the person’s own name or brand, the  
16 producer of the carpet is the owner or licensee of a trademark or  
17 brand under which the carpet is sold or distributed in the state,  
18 whether or not the trademark is registered.

19     (3) If there is no person who is a producer of the carpet for  
20 purpose of paragraphs (1) and (2), the producer of that carpet is  
21 the person who imports the carpet into the state for sale or  
22 distribution.

23     ~~(g)~~

24     (i) “Product goal” means those qualitative or quantitative goals  
25 determined by the producer to measure improvements that reduce  
26 the life cycle impacts of a carpet.

27     ~~(h) “Product stewardship” means requiring the producer of a~~  
28 ~~carpet, and all other entities involved in the distribution chain of~~  
29 ~~a carpet, to share in the responsibility of reducing the life cycle~~  
30 ~~impact of the carpet and its packaging, including requiring the~~  
31 ~~producer who makes design and marketing decisions for the carpet~~  
32 ~~to bear the primary responsibility for this reduction.~~

33     ~~(i) “Product stewardship organization” means an organization~~  
34 ~~appointed by one or more producers to act as an agent on behalf~~  
35 ~~of the producer to design, submit, and administer a carpet~~  
36 ~~stewardship plan pursuant to this chapter~~

37     ~~(j) “Product stewardship plan” or “plan” means a plan written~~  
38 ~~by an individual producer or a carpet stewardship organization,~~  
39 ~~on behalf of one or more producers, that includes all of the~~  
40 ~~information required by Section 42973.~~

1 (j) “Program” means the system for the collection,  
2 transportation, recycling, and disposal of carpets pursuant to a  
3 completed carpet stewardship plan that is financed and managed  
4 or provided by an individual producer or collectively by one or  
5 more producers.

6 (k) “Recycling rate” means a quantitative measure that  
7 establishes the amount of a collected carpet that is recycled as  
8 compared to the total amount of the carpet that is collected,  
9 including the amount of the carpet that is discarded for reuse,  
10 energy recovery, or safe disposal.

11 (l) “Reporting period” means the period commencing January  
12 1 and ending on December 31 of the same calendar year.

13 (m) “Retailer” means a person ~~that~~ who offers new carpet in a  
14 retail sale, as defined in Section 6007 of the Revenue and Taxation  
15 Code, including a retail sale at retail through any means, including  
16 remote offerings such as sales outlets, catalogs, or an Internet Web  
17 site.

18 (n) “Reuse rate” means a quantitative measure that establishes  
19 the amount of a collected carpet that is reused as compared to the  
20 total amount of the covered carpet that is collected, including the  
21 amount of the carpet that is discarded by recycling, energy  
22 recovery, or safe disposal.

23 (o) “Sell” or “sales” means ~~any~~ a transfer of title of a carpet for  
24 consideration, including a remote sale conducted through a sale  
25 outlet, catalog, or Internet Web site or similar electronic means,  
26 but does not include a lease.

27 (p) “Wholesaler” means a person who offers new carpets for  
28 sale in this state in a sale that is not a retail sale, as defined in  
29 Section 6007 of the Revenue and Taxation Code, and in which the  
30 carpet is intended to be resold.

31 ~~42971. On or before January 1, 2012, the department shall~~  
32 ~~establish a baseline collection rate for the amount of carpets that~~  
33 ~~are discarded and subsequently collected, based on existing~~  
34 ~~collection data.~~

35 ~~42972. (a) The collection rate for a carpet shall be determined~~  
36 ~~in the following manner:~~

37 ~~(1) For the calendar year commencing January 1, 2013, the~~  
38 ~~collection rate shall be 5 percent more than the baseline collection~~  
39 ~~rate determined pursuant to Section 42971.~~

1     ~~(2) On and after January 1, 2014, the collection rate for each~~  
2 ~~carpet shall increase by no less than 5 percent annually until a 95~~  
3 ~~percent collection rate is reached.~~

4     ~~(b) A producer may petition the department for an adjustment~~  
5 ~~to the collection rate. The department may grant an adjustment to~~  
6 ~~the collection rate only if the department determines there are~~  
7 ~~documented exigent circumstances that are beyond the control of~~  
8 ~~the producer or carpet stewardship organization.~~

9     ~~42973. (a) On or before September 30, 2011, a producer or~~  
10 ~~the carpet stewardship organization of a carpet shall submit a carpet~~  
11 ~~stewardship plan to the department. A carpet stewardship~~  
12 ~~organization created pursuant to this section shall be open for~~  
13 ~~participation by all producers of carpet.~~

14     ~~(b) A producer, group of producers, or carpet stewardship~~  
15 ~~organization shall consult with stakeholders during the~~  
16 ~~development of the carpet stewardship plan, including soliciting~~  
17 ~~stakeholder comments and responding to stakeholder comments~~  
18 ~~prior to submitting the carpet stewardship plan.~~

19     ~~(c) Each carpet stewardship plan for an identified carpet shall~~  
20 ~~address the environmental impacts of a carpet over the entire life~~  
21 ~~cycle of that carpet, including carpet design, manufacture, and~~  
22 ~~distribution, and the collection, transportation, reuse, recycling,~~  
23 ~~and final disposition of discarded carpet, in accordance with this~~  
24 ~~chapter. The plan shall include, at a minimum, all of the following~~  
25 ~~elements:~~

26     ~~(1) Contact information for all participating producers.~~

27     ~~(2) A description of the brands of carpet covered by the plan.~~

28     ~~(3) Performance goals, including a detailed description of how~~  
29 ~~the performance goals will be achieved and how results will be~~  
30 ~~measured and including both of the following:~~

31     ~~(A) The collection rate shall be included as a performance goal~~  
32 ~~for a carpet.~~

33     ~~(B) The reuse rate and recycling rate for that carpet shall be~~  
34 ~~included in the performance goal.~~

35     ~~(4) An overview of the roles and responsibilities of key players~~  
36 ~~along the distribution chain for that carpet.~~

37     ~~(5) Financing methods for the carpet stewardship plan.~~

38     ~~(6) Strategies for managing and reducing the life cycle impacts~~  
39 ~~of the carpet, steps that will be taken to ensure environmentally~~

1 sound management, and how impacts will be tracked over time to  
2 show continual improvement.

3 ~~(7) Education and outreach activities.~~

4 ~~(8) A description of the consultation process used to consult~~  
5 ~~with affected stakeholders regarding the carpet stewardship plan.~~

6 ~~(9) A description of product goals, including, but is not limited~~  
7 ~~to, carpet designing and materials content, manufacturing,~~  
8 ~~packaging, distribution, and end-of-life management goals. The~~  
9 ~~product goals shall address the use of virgin material in the~~  
10 ~~manufacture of the carpet, the impact upon, or use of, water or~~  
11 ~~energy by the carpet, the use of, or generation of hazardous~~  
12 ~~substances, by the carpet, the carbon footprint of the carpet, the~~  
13 ~~carpet's longevity, the recycled content of the carpet, and~~  
14 ~~recyclability, where applicable.~~

15 ~~(10) Procedures for notifying all retailers engaged in the sale~~  
16 ~~of that carpet.~~

17 42974. ~~(a) On or before January 1, 2012, the department shall~~  
18 ~~review any plan submitted to the department and either approve~~  
19 ~~or disapprove the carpet stewardship plan submitted to the~~  
20 ~~department. If the department does not approve the plan, the~~  
21 ~~department shall notify the producer or organization that submitted~~  
22 ~~the plan and the producer or organization shall revise and resubmit~~  
23 ~~the disapproved carpet stewardship plan within 30 days after~~  
24 ~~receiving the notification.~~

25 ~~(b) All carpet stewardship plans submitted to the department~~  
26 ~~shall be available to the public on the department's Internet Web~~  
27 ~~site.~~

28 ~~(c) A producer shall notify the department 30 days before~~  
29 ~~instituting a significant or material change to a carpet stewardship~~  
30 ~~plan.~~

31 ~~(d) The carpet stewardship plan shall be implemented upon the~~  
32 ~~approval of the department by the producer or the carpet~~  
33 ~~stewardship organization that submitted the plan.~~

34 42975. ~~On and after January 1, 2012, a producer or retailer~~  
35 ~~shall not offer a carpet for sale in this state or offer a carpet for~~  
36 ~~promotional purposes in this state unless the producer or carpet~~  
37 ~~stewardship organization of the carpet has submitted a carpet~~  
38 ~~stewardship plan to the department pursuant to Section 42973 and~~  
39 ~~the carpet stewardship plan is approved by the department pursuant~~



1 to Section 42974 and being implemented pursuant to Section  
2 42976.

3 42976. A producer of a carpet shall do all of the following  
4 when implementing this chapter, including when implementing  
5 an approved carpet stewardship plan:

6 (a) Collect the individual carpets to be reused or recycled  
7 pursuant to the carpet stewardship plan for that carpet submitted  
8 by the producer or carpet organization pursuant to Section 42973  
9 and approved by the department pursuant to Section 42974.

10 (b) Meet the performance goals included in the carpet  
11 stewardship plan, including achieving the collection rate established  
12 pursuant to Section 42973.

13 (c) Provide collection services, in accordance with Section  
14 42977, for the carpet that does not charge a fee at the time when  
15 the carpet is collected for either recycling or disposal.

16 (d) Pay all administrative and operational costs associated with  
17 the carpet stewardship plan, including the costs of collection,  
18 transportation, and recycling or disposal, or both, of the carpet,  
19 including the amount determined pursuant to Section 42979.

20 (e) Submit the annual report required by Section 42978.

21 42977. A carpet shall be handled and recycled, or, if not  
22 feasible to be recycled, disposed of, in accordance with all state  
23 and federal laws and regulations and local ordinances and  
24 regulations, including, but not limited to, any law, regulation, or  
25 ordinance that regulates hazardous waste.

26 42978. (a) On or before January 1, 2012, the department shall  
27 adopt regulations specifying the information required to be included  
28 in annual carpet stewardship plan reports. Notwithstanding  
29 subdivision (b), the department may include, in those regulations,  
30 alternative reporting requirements for purposes of those annual  
31 reports.

32 (b) Beginning one year after a carpet stewardship plan is  
33 approved or no later than January 1, 2013, whichever date is earlier,  
34 and every subsequent year thereafter, each producer or stewardship  
35 organization implementing a carpet stewardship plan shall prepare  
36 and submit to the department an annual report describing the  
37 activities carried out pursuant to the carpet stewardship plan during  
38 the previous reporting period. The report, unless required otherwise  
39 by the department pursuant to the regulations adopted pursuant to

1 ~~subdivision (a), shall include, but is not limited to, all of the~~  
2 ~~following:~~

3 ~~(1) Whether the producer or carpet stewardship organization,~~  
4 ~~in implementing the plan, attained the performance goals for the~~  
5 ~~carpet, and if the performance goals were not met, what actions~~  
6 ~~the producer or carpet stewardship organization will take during~~  
7 ~~the next reporting period to attain those performance goals.~~

8 ~~(2) Whether the producer or carpet stewardship organization,~~  
9 ~~in implementing the plan, attained the carpet goals for the carpet,~~  
10 ~~and if the carpet goals were not met, what actions the producer or~~  
11 ~~stewardship organization will take during the next reporting period~~  
12 ~~to achieve those carpet goals.~~

13 ~~(3) A description of the outreach and education activities~~  
14 ~~undertaken during the reporting period to inform consumers and~~  
15 ~~other stakeholders of the collection opportunities and safe carpet~~  
16 ~~handling described in the carpet stewardship plan.~~

17 ~~(4) A description of those areas in the state that have been served~~  
18 ~~by the carpet stewardship plan and any barriers to, or opportunities~~  
19 ~~for, increased coverage in the future.~~

20 ~~(5) A description of the actions undertaken to manage and reduce~~  
21 ~~the life cycle impacts of the carpet.~~

22 ~~(6) The total cost to implement the carpet stewardship plan and~~  
23 ~~a description of any economic or job impacts to stakeholders.~~

24 ~~(e) The department shall review a report submitted pursuant to~~  
25 ~~this section and shall approve the report if the department~~  
26 ~~determines the report contains the information required by this~~  
27 ~~section.~~

28 ~~(d) The department shall make all reports submitted to the~~  
29 ~~department pursuant to this section available to the public on the~~  
30 ~~department's Internet Web site.~~

31 ~~42979. (a) The producer or carpet stewardship organization~~  
32 ~~submitting a carpet stewardship plan shall pay the department an~~  
33 ~~administrative fee in the amount of \_\_\_\_\_ dollars (\$\_\_\_\_\_) when the~~  
34 ~~plan is submitted for review and approval and thereafter pay an~~  
35 ~~annual administrative fee of \_\_\_\_\_ percent of the carpet stewardship~~  
36 ~~program costs as reported under paragraph (6) of subdivision (b)~~  
37 ~~of Section 42978.~~

38 ~~42971. (a) On or before September 30, 2011, a producer or~~  
39 ~~the carpet stewardship organization of a carpet shall submit a~~  
40 ~~carpet stewardship plan to the department.~~

1 (b) A producer, group of producers, or carpet stewardship  
2 organization shall consult with stakeholders during the  
3 development of the carpet stewardship plan, including soliciting  
4 stakeholder comments and responding to stakeholder comments  
5 prior to submitting the carpet stewardship plan.

6 (c) Each carpet stewardship plan shall include, at a minimum,  
7 all of the following elements:

8 (1) Contact information for all participating producers.

9 (2) The collection rate for the carpets subject to the plan, which  
10 shall be calculated in the following manner, except as provided  
11 in Section 42973:

12 (A) For the calendar year commencing January 1, 2014, the  
13 collection rate shall be 50 percent of the carpets sold by the  
14 producers subject to the plan during the previous calendar year.

15 (B) On and after January 1, 2017, the collection rate shall be  
16 70 percent of the carpets sold by the producers subject to the plan  
17 during the previous calendar year.

18 (C) The plan shall have a target of achieving a 95 percent  
19 collection rate.

20 (3) A description containing all of the following elements:

21 (A) Brands of the carpets covered by the plan.

22 (B) How the product goals will be achieved.

23 (C) The annual schedule for achievement of the collection rate.

24 (D) Convenient collection opportunities for consumers in all  
25 counties of the state.

26 (E) Reuse rate and recycling rate for carpets.

27 (F) Roles and responsibilities of key players along the  
28 distribution chain.

29 (G) Procedures to be used for notifying retailers and  
30 wholesalers of the program.

31 (4) Financing method selected to sustainably fund the  
32 implementation of the plan.

33 (5) Education and outreach activities to maximize collection  
34 rates.

35 (d) A producer or carpet stewardship organization shall contact  
36 cities, counties, districts, and regional agencies, in whose  
37 jurisdictions the program will be implemented, to do either, or  
38 both, of the following:

39 (1) Enter into an agreement to reimburse the local public agency  
40 for the cost of collecting carpets.

1     (2) *Provide the local public agency with the location, hours,*  
2 *and contact information for the convenient collection points for*  
3 *carpets that are located within the county where the local agency*  
4 *is located and are consistent with the plan.*

5     42972. (a) *A carpet stewardship program shall be considered*  
6 *in compliance with this article only if it achieves the collection*  
7 *rate specified in a plan that has been deemed complete by the*  
8 *department pursuant to Section 42974.*

9     (b) *If a program achieves a collection rate of 95 percent, the*  
10 *producer or carpet stewardship organization shall not be required*  
11 *to pay the annual fee imposed pursuant to subdivision (a) of Section*  
12 *42979.*

13     42973. *A producer may petition the department for an*  
14 *adjustment to the collection rate. The department may grant an*  
15 *adjustment to the collection rate only if the department determines*  
16 *there are documented exigent circumstances that are beyond the*  
17 *control of the producer or carpet stewardship organization.*

18     42974. (a) *The department shall review a plan within 45 days*  
19 *after the date the plan is received and either deem the plan*  
20 *complete or incomplete. If the department does not deem the plan*  
21 *complete, the department shall notify the producer or organization*  
22 *that submitted the plan of the deficiencies and the producer or*  
23 *organization shall revise and resubmit the plan within 45 days*  
24 *after receiving the notification. If the department deems the plan*  
25 *complete, the department shall, within 45 days after receipt, notify*  
26 *the producer or organization that the submitted plan is complete.*

27     (b) *The department shall make all carpet stewardship plans*  
28 *submitted to the department available to the public on the*  
29 *department's Internet Web site.*

30     (c) *A producer shall notify the department 30 days before*  
31 *instituting a significant or material change to a carpet stewardship*  
32 *plan.*

33     (d) *On or before July 1, 2012, and on or before July 1 annually*  
34 *thereafter, the department shall post on its Internet Web site a*  
35 *listing of the brands of carpets for which the producer is in*  
36 *compliance with this article.*

37     42975. *On and after January 1, 2012, a producer, wholesaler,*  
38 *or retailer shall not offer a carpet for sale in this state or offer a*  
39 *carpet for promotional purposes in this state unless the plan*  
40 *submitted by the producer or carpet stewardship organization of*

1 *that carpet has been deemed complete by the department pursuant*  
2 *to Section 42974.*

3 *42976. Upon receiving notification from the department*  
4 *pursuant to Section 42974 that a plan is complete, the producer*  
5 *or the carpet stewardship organization shall do all of the following:*

6 *(a) Implement the plan, including, but not limited to, achieving*  
7 *the collection rate specified in the plan.*

8 *(b) Pay the administrative fees imposed pursuant to subdivision*  
9 *(a) of Section 42979.*

10 *(c) Submit the annual report required by Section 42978.*

11 *42977. A wholesaler or a retailer that distributes or sells*  
12 *carpets shall monitor the department's Internet Web site to*  
13 *determine if the sale of a producer's carpets is in compliance with*  
14 *this article.*

15 *42978. (a) On or before April 1, 2013, and every subsequent*  
16 *year thereafter, each producer or carpet stewardship organization*  
17 *implementing a plan shall prepare and submit to the department*  
18 *an annual report describing the activities carried out pursuant to*  
19 *the plan during the previous calendar year. The annual report*  
20 *shall include, but is not limited to, all of the following:*

21 *(1) The extent to which each element of the plan specified in*  
22 *subdivision (c) of Section 42971 is attained, including, but not*  
23 *limited to, achieving the collection rate specified in the plan.*

24 *(2) The actions that the producer will take during the next*  
25 *reporting period to meet the product goals specified in the plan*  
26 *that have not been met.*

27 *(3) A report of the total sales data for carpets sold in the state*  
28 *for the previous calendar year.*

29 *(b) The department shall review an annual report submitted*  
30 *pursuant to this section and shall deem it complete if the*  
31 *department determines the report contains the information required*  
32 *by this section.*

33 *(c) If the department does not act on a report within 45 days of*  
34 *receipt, the report shall be deemed to be complete.*

35 *(d) The department shall make all reports submitted to the*  
36 *department pursuant to this section available to the public on the*  
37 *department's Internet Web site.*

38 *(e) If the collection rate for the carpets subject to the plan meets*  
39 *the collection rate specified in subdivision (b) of Section 42972,*  
40 *the report shall be submitted once every two years.*

1     42979. (a) *The producer or carpet stewardship organization*  
2 *submitting a carpet stewardship plan shall pay the department an*  
3 *annual administrative fee. The department shall set the fee at an*  
4 *amount that, when paid by every producer and carpet stewardship*  
5 *program that submits a carpet stewardship plan, is adequate to*  
6 *cover the department's full costs of administering and enforcing*  
7 *this chapter. The department may establish a variable fee based*  
8 *on relevant factors including, but not limited to, the portion of*  
9 *carpets produced by the fee payer compared to the total amount*  
10 *of carpet produced by all producers or stewardship organizations*  
11 *submitting a carpet stewardship plan.*

12     (b) The total amount of annual fees collected pursuant to this  
13 section shall not exceed the amount necessary to recover costs  
14 incurred by the department in connection with the administration  
15 and enforcement of the requirements of this chapter.

16     42980. (a) The Carpet Stewardship Account and the Carpet  
17 Stewardship Penalty Subaccount are hereby established in the  
18 Integrated Waste Management Fund.

19     (b) All fees collected pursuant to this chapter shall be deposited  
20 in the Carpet Stewardship Account and may be expended by the  
21 department, upon appropriation by the Legislature, to cover the  
22 department's costs to implement this chapter.

23     (c) All penalties collected pursuant to this chapter shall be  
24 deposited in the Carpet Stewardship Penalty Subaccount and may  
25 be expended by the department, upon appropriation by the  
26 Legislature, to cover the department's costs to implement this  
27 article.

28     (d) All funds collected may be expended as incentives to  
29 enhance reuse, recyclability, and redesign efforts and to reduce  
30 environmental and safety impacts of carpet.

31     42981. (a) If, after holding a public hearing, the department  
32 finds that a producer has failed to make a good faith effort to  
33 comply with this chapter, including, but not limited to, failing to  
34 submit a plan pursuant to Section ~~42973~~ 42971 or failing to submit  
35 an annual report pursuant to Section 42978, the department shall  
36 issue a compliance order with a schedule for achieving compliance.

37     (b) If, after issuing an order and schedule for compliance  
38 pursuant to subdivision ~~(e)~~ (a), the department finds that the  
39 producer has failed to make a good faith effort to comply with this  
40 chapter, the department may impose an administrative civil penalty

1 of ~~ten thousand dollars (\$10,000)~~ *five thousand dollars (\$5,000)*  
2 per day until the producer achieves compliance.

3 (c) For purposes of this section, “good faith effort” means all  
4 reasonable and feasible efforts by a producer towards implementing  
5 the requirements of this chapter, including, but not limited to,  
6 meeting the performance goals specified in the plan.

7 42982. (a) In addition to the penalty specified in Section  
8 42981, the department may impose an administrative civil penalty  
9 of ~~ten thousand dollars (\$10,000) per day against a producer or of~~  
10 *five thousand dollars (\$5,000) per day against a producer,*  
11 *wholesaler, or retailer who violates Section 42975.*

12 (b) *A producer, wholesaler, or retailer that removes from sale*  
13 *any carpet within 90 days of discovery that it is not in compliance*  
14 *with this chapter shall not be deemed to be in violation of Section*  
15 *42975.*

16 ~~(b) Prior to enforcing a penalty pursuant to this section, the~~

17 ~~(c) Prior to enforcing any penalty pursuant to this section, the~~  
18 department shall issue a compliance order to the producer or retailer  
19 selling the carpet allowing 30 days from the date of the compliance  
20 order to cease sales of the carpet.

21 42983. ~~(a) The department, or its designee, may inspect, audit,~~  
22 ~~or require and review third-party audits of producers, carpet~~  
23 ~~stewardship organizations, and service providers, including~~  
24 ~~collectors and recyclers, that are utilized to fulfill the requirements~~  
25 ~~of a carpet stewardship plan.~~

26 ~~(b) For purposes of this section, a “service provider” means a~~  
27 ~~person who is authorized to perform an action to implement the~~  
28 ~~carpet stewardship plan with regard to the collection, recycling,~~  
29 ~~reuse, or disposal of a carpet, but does not include the consumer~~  
30 ~~of the carpet.~~

31 42984. ~~The department shall adopt regulations for the~~  
32 ~~imposition of administrative civil penalties pursuant to this chapter.~~

33 42985.

34 42983. This article does not limit, supersede, duplicate, or  
35 otherwise conflict with the authority of the Department of Toxic  
36 Substances Control under Section 25257.1 of the Health and Safety  
37 Code to fully implement Article 14 (commencing with Section  
38 25251) of Chapter 6.5 of Division 20 of the Health and Safety

- 1 Code, including the authority of the department to include a carpet
- 2 in its product registry.

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